

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICARDO CAJERO TORRES, et al.,

Plaintiffs,

-v-

SUSHI SUSHI HOLDINGS INC., et al.,

Defendants.

19 Civ. 2532 (PAE) (RWL)

ORDER

PAUL A. ENGELMAYER, District Judge:

On February 5, 2021, the Court granted the motions of defense counsel to withdraw from this case. *See* Dkt. 71. That withdrawal left the corporate defendants—Sushi Sushi Holdings, Inc. (“Sushi Sushi”) and Harlem Sushi Inc. (“Harlem Sushi”)—unrepresented. And because, as the Court noted at the time, corporate entities cannot proceed *pro se*, the Court stated that it would entertain a motion for default judgment as to those defendants. *See id.* at 1–2 (citing *Lattanzio v. COMTA*, 481 F.3d 137, 139 (2d Cir. 2007)). On February 16, 2021, the Court issued an order again stating that plaintiffs may “move for a default judgment against the now-unrepresented corporate defendants in accord with the procedures set forth in the Court’s Individual Rule 3(M).” Dkt. 75 at 2. And on March 2, 2021, the Court again reminded plaintiffs that they “remain at liberty to move for a default judgment against the corporate defendants” given defendants’ lack of counsel. Dkt. 83 at 1. The Court also denied defendants’ request for a stay of default proceedings. *Id.*

As of the April 6, 2021 final pretrial conference in this case, however, plaintiffs had neither sought a certificate of default nor moved for entry of default against any defendants. Given plaintiffs’ delay in so moving—and the inattention that has more broadly characterized

plaintiffs' counsel's litigation of this action—the Court set a deadline of April 20, 2021, for plaintiffs to move for default. And, if plaintiffs failed to do so by that date, the Court stated that it would dismiss plaintiffs' claims against Sushi Sushi and Harlem Sushi, without prejudice, for failure to prosecute under Federal Rule of Procedure 41(b).

Plaintiffs did not so file by April 20, 2021. Instead, without explanation, they waited until a day later, April 21, 2021, to move for a default judgment against the corporate defendants. *See* Dkts. 102–07. In light of that delay, plaintiffs are directed to file, by 5:00 p.m. on April 23, 2021, a declaration explaining why they failed to timely comply—yet again, *see, e.g.*, Dkts. 81, 83, 93—with an order of this Court, including why the Court should not deny their motion for a default judgment based on its untimeliness and dismiss the corporate defendants for failure to prosecute under Rule 41(b).

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: April 22, 2021
New York, New York